IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-11-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.15132 of 1999

R.Ramasamy .. Petitioner.

Versus

1.The District Collector,
Coimbatore.

2.The Inspector,
CS CID, Coimbatore. .. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorari, calling for the entire records relating to proceedings of the 1st respondent in his proceedings Na.Ka.No.5531/98-K3, dated 27.10.1998 and quash the same.

For petitioner : Mr.C.Prakasam

For respondents : Mr.V.Manoharan
Government Advocate

O R D E R

Heard Mr.C.Prakasam, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondents.

2. It is submitted by the learned counsel appearing for the petitioner that 64 bags of rice, which belonged to one Muthusamy was seized by the second respondent, on 20.7.1998, from Thulukkanthottathu Salai, Salapalayam, Annur, alleging that the goods belonged to the petitioner. The petitioner was also arrested on the same day and after being released on bail, the petitioner was issued with Section 6-B notice by the first respondent. Though the petitioner had been represented by a counsel before the first respondent during the Section 6-A enquiry, the 1st respondent had passed the order confiscating the entire goods and had given sanction order for prosecution against the petitioner by his proceedings in Na.Ka.5531/98/K3, dated 27.10.1998, which has been challenged before this Court by way of the present writ petition.

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3. The claim of the petitioner is that the seized rice does not belong to him and that the petitioner was dealing with the rice on behalf of the small traders only as a commission agent and that the impugned order has been passed by the first respondent only on a misconception.

4. It is submitted by the learned counsel appearing on behalf of the respondent that as against the impugned order passed by the respondent, a statutory appeal is available to the petitioner, under Section 6-C of the Essential Commodities Act, 1955. Section 6-C of the Essential Commodities Act, 1955, reads as follows:

> 6-C.Appeal.- (1) Any person aggrieved by an order of confiscation under Section 6-A may, within one month from the date of the communication to him of such order, appeal to the State Government concerned and the State Government shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.
>
> (2) Where an order under Section 6-A is modified or annulled by the State Government, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under Section 6-A, the person concerned is acquitted, and in either case it is not possible for any reason to return the essential commodity seized, such persons shall, except as provided by sub-section (3) of section 6-A, be paid the price therefor as if the essential commodity had been sold to the Government with reasonable interest calculated from the day of the seizure of the essential commodity and such price shall be determined -
>
> (i) in the case of food grains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (3-B) of section 3;
>
> (ii) in the case of sugar, in accordance with the provisions of sub-section (3-C) of section3 ; and
>
> (iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3.

5. However, the learned counsel appearing for the petitioner had submitted that at the time of the filing of the writ petition, the appellate authority had not been designated, as provided under the Act. Therefore, the petitioner has come before this Court, by way of filing the present writ petition, under Article 226 of the Constitution of India. It is also submitted that at present the District Court, Coimbatore, has been designated as the appellate forum, under Section 6-C of the Essential Commodities Act, 1955, to hear and decide the appeals.

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6. Considering the facts and circumstances of the case, the petitioner is granted liberty to file an appeal before the designated appellate authority, as provided under the law, within a period of four weeks from the date of receipt of a copy of this order. On such appeal being filed, the appellate authority is expected to dispose of the same expeditiously.

The writ petition is disposed of with the above direction. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The District Collector,
Coimbatore.

2.The Inspector,
CS CID, Coimbatore.

1 cc To The Government Pleader, SR.69837.
1 cc To Mr.C.Prakasam, Advocate, SR.69782.

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RVL 14.12.2007

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